POWERS—EXECUTION—ESTOPPEL.—A gift of real estate was made to one for life with power of appointment by will. The donee of the power made a conveyance in mortgage and received for his own use the consideration of the mortgage. He afterwards exercised the power of appointment in favor of a third party. *Held,* he was estopped from exercising the power of appointment to the prejudice of the mortgagee. *Langley* v. *Conlan,* (Mass. 1912) 98 N. E. 1064.

The case is interesting because the question whether the donee of a power can be estopped from a voluntary exercise of the power, appears never to have arisen in Massachusetts. The question has, however, been passed on in other jurisdictions, the principle announced being, that where the donee of a power creates interests inconsistent with the exercise of the power, then the power is extinguished, because it is not permitted to a man to defeat his own grant; and this was the ground for the decision in the principal case. *West* v. *Berney,* I Russ & M. 431; *Smith* v. *Death,* 5 Mad. 227; *Foakes* v. Jackson, [1900] I Ch. 807; *Leggett* v *Doremus,* 25 N. J. Eq. 122; *Grosvenor* v. *Bowen,* 15 R. I. 549.

RAILROADS—ACCOMMODATIONS FOR WHITE AND COLORED PASSENGERS.—A statute of Mississipi provides that every railroad doing business in that state shall provide equal but separate accommodations for white and colored passengers, and shall assign each passenger to his proper car. Provisions are made for the punishment by fine or imprisonment for refusal to furnish the accommodations or to assign the passengers to the proper car. Plaintiff bought a ticket over defendant company's and connecting lines, from Vicksburg, Miss. to New York. Three negroes were in the car to which the plaintiff was assigned. She requested the conductor to assign her or the negroes to another car, but he refused or neglected to do so. Plaintiff brought this action against the railroad and recovered. *Held* that the statute referred to interstate as well as intrastate passengers, and required that both should be assigned to their proper cars; and that the statute, so construed, was not a burden on interstate commerce nor an attempt to regulate it, and was constitutional. *Alabama and Vicksburg Ry. Co.* v. *Morris,* (Miss. 1912) 60 So. 11.

Statutes similar to the one here involved have come before the United States Supreme Court in *L. N. O. & T. Ry. Co.* 1. Miss. 133 U. S. 587; *Plessy* v. *Ferguson,* 163 U. S. 537; *Chesapeake and Ohio Ry. Co.* v. *Kentucky,* 179 U. S. 388. In each of these cases, however, the supreme court of the state had held that the statute, on the point involved, referred only to intrastate business, and the supreme court, in each case, held the statute valid as to intrastate business, but did not consider it in reference to interstate business. In *Hall* v. *DeCuir,* 95 U. S. 485, a statute of Louisiana, providing that carriers in that state must allow all passengers to occupy all parts equally, without discrimination as to color, was held unconstitutional, the court holding that the statute referred to interstate as well as intrastate passengers, and that as such, it was a direct burden on interstate commerce and void. In *Chiles* v. *Chesapeake and Ohio Ry. Co.,* 218 U. S. 71, it was held that a railroad could,

by force of self-adopted rules, compel an interstate negro passenger to occupy the separate coach provided. In *Anderson* v *Louisville and N. R. Co.,* 62 Fed. 46, the court held that a statute of Kentucky, similar to the one in the principal case, was a regulation of interstate commerce and void, basing their decision on *Hall* v. *DeCuir, supra.* Similar statutes have been held void as to interstate passengers but valid as to intrastate passengers in *State of La. ex rel. Abbott* v. *Judge,* 44 La. Ann. 770; *Hart* v. *State,* 100 Md. 595. In *Smith* v. *State,* 100 Tenn. 494, the court held the Tennessee statute valid, both as to interstate and intrastate passengers, saying that the question was an open one in the United States Supreme Court, and that, in their opinion, it was a reasonable police regulation of the state, and not obnoxious to the Federal Constitution.

RIGHT OF PRIVACY—APPARENT EXTENSION OF DOCTRINE.—Plaintiff was the father of twins, whose bodies were connected from the shoulders down to the end of their bodies; they died, and plaintiff had them photographed, the photographer agreeing to make twelve photographs, and no more. He then made additional photographs from the negative, and had one copyrighted. Plaintiff sued for damages. *Held,* that the defendant was liable. "The corpse of the children was in the custody of the parents. The photographer had no authority to make the photographs except by their authority, and when he exceeded his authority he invaded their right." *Douglas* v. *Stokes,* (Ky. 1912) 149 S. W. 849.

Whether or not the common law recognized the right of privacy is a matter about which there has been much discussion. That it does not, has been held in *Roberson* v. *Rochester Co.,* 171 N. Y. 539, 64 N. E. 442, 89 Am. St. Rep. 828, 59 L. R. A. 478; *Henry* v. *Cherry & Webb,* 30 R. I. 13, 73 Atl. 97, 24 L. R. A. (N. S.) 991, 136 Am. St. Rep. 928, 18 Ann. Cas. 1006; and there is a dictum to the same effect in *Atkinson* v. *Doherty* 121 Mich. 372, 80 N. W. 285, 80 Am. St. Rep. 507. That it does, has been held in *Paversich* v. *Ins. Co.,* 122 Ga. 190, 50 S. E. 68, 69 L. R. A. 101, 106 Am. St. Rep. 107, 2 E. & A. Ann. Cas. 561; *Foster-Milburn Co.* v. *Chinn,* 134 Ky. 424, 120 S. W. 364, 34 L. R. A. (N. S.) 1137, 135 Am. St. Rep. 417; *Munden* v. *Harris,* 153 Mo. App. 652, 134 S. W. 1076. See 8 MICH. L. REV. 221. The Missouri Court contends for the right of privacy on the ground that the publication of one's picture is a violation of a property right. *Munden* v. *Harris,* supra. It is to be noted in the case at bar that the photogroph is not of the one who brings the action. It had already been decided in Kentucky that one has a right of action against another who publishes his picture. *Foster-Milburn Co.* v. *Chinn, supra.* But here the photograph was of the children of the plaintiff, and not of the plaintiff himself. In the cases of *Murray* v. *Lithographic Co.* 28 N. Y. Supp. 271, 31 Abb. N. C. 266, 8 Misc. 36, and *Schuyler* v. *Curtis* 147 N. Y. 434, the action was brought by relatives, but since in New York the right of privacy at common law is denied altogether, the question as to what relation the plaintiff must bear to the one whose picture is used in order that he may maintain an action, was not involved. The case of *Atkinson* v. *Doherty, supra,* while ostensibly placed on the broad ground that there is no right of privacy at common